

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 15033US02

PATENT

In the Application of:)	Electronically Filed on February 26, 2009
)	
Jeyhan Karaoguz, et al.)	
)	
Serial No.: 10/672,601)	
)	
Filed: September 26, 2003)	
)	
For: AUTOMATIC ACCESS AND)	
CONTROL OF MEDIA)	
PERIPHERALS ON A MEDIA)	
EXCHANGE NETWORK)	
)	
Examiner: BATES, KEVIN T.)	
)	
Group Art Unit: 2153)	
)	
Confirmation No.: 1971)	

SUPPLEMENTAL REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Paper responds to the Supplemental Examiner's Answer mailed January 27, 2009. The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 16-49 of the present application.

I. The Proposed Combination Of Hino And Narasimhan Does Not Render Claims 16, 19-23, 25, 27, 29-32, 35-39, 41, 43 And 45-49 Unpatentable

A. The Office Action Has Not Shown That The Cited References Describe, Teach Or Suggest “Monitoring, By The First System, At Least One Status Parameter Of The At Least One Media Peripheral”

As noted in the Appeal Brief at pages 7-8, the final Office Action “maps” Hino onto the “identifying” steps of independent claims 16 and 32 as follows:

identifying ([Hino at] Column 8, lines 1-4) by a first system, at a first location (Column 7, lines 1-6, **the control device [60]**), the at least one media peripheral ([Hino at] Column 6, lines 65-67, **the home appliance [31,32]**) communicatively coupled a second system, the second system at a second location ([Hino at] Column 6, lines 41-51, **the gateway (GW) apparatus [10]**)

See March 19, 2008 Office Action at page 2 (emphasis added, reference numerals from Hino in brackets). The Supplemental Examiner’s Answer maps Hino onto the “identifying” steps in the exact same manner. See Supplemental Examiner’s Answer at page 3. Thus, just like the Office Action, the Supplemental Examiner’s Answer cites the “control device 60” of Hino as the “first system,” the “GW apparatus 10” of Hino as the “second system,” and the “home appliance 31 or 32” of Hino as the media peripheral.

As such, to maintain consistency, the Office Action and the Supplemental Examiner’s Answer must map Hino onto the “monitoring” step as follows:

monitoring, by the **[control device 60]**, which as shown above the Office Action and the Supplemental Examiner’s Answer cite as the “first system”], at least one status parameter of the **at least one [home appliance 31, 32]**, which the Office Action and the Supplemental Examiner’s Answer cite as the “media peripheral”], if the authorization is successful.

As noted in the Appeal Brief, however, **the “control device 60” is merely an input device, such as a “keyboard of the GW apparatus 10.”** See Appeal Brief at pages 7-8 and Hino at column 7, lines 1-6 (“The control device 60 is made up of a device capable of directly inputting control commands to the GW apparatus 10.... A keyboard of the GE apparatus can be used as the control device 60”). The **input**

device 60 of Hino, such as a keyboard, is operable to allow a user to input commands into a system, but is incapable of **monitoring** a media peripheral. A keyboard is incapable of monitoring anything.

To reiterate, the Office Action and the Supplemental Examiner's Answer clearly cite the control device 60 of Hino, which is merely an input device such as a keyboard, as the first system that monitors the home appliance 31 or 32. The Supplemental Examiner's Answer also cites Hino at column 7, line 62 - column 8, line 19, column 7, lines 15-21, column 9, lines 11-18, column 11, lines 7-27 and 29-46 as disclosing the monitoring step. See Supplemental Examiner's Answer at pages 9-10. Keeping in mind that the Office Action relies on the control device 60 of Hino, which is merely an input device such as a keyboard, as the first system that monitors the home appliance 31 or 32, these cited portions of Hino clearly do not describe, teach or suggest that the control device 60 monitors anything, let alone the home appliances 31 or 32. At best, these portions of Hino that the Office Action relies on indicate that the control device 60 issues acquisition requests. See Hino at column 11, lines 22-27.

Moreover, the Office Action has not explained how the control device 60, such as a **keyboard** of the GW apparatus 10 can monitor anything, let alone a home appliance or media peripheral. The Office Action has not demonstrated that the cited references describe, teach or suggest "monitoring, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful," as recited in claim 1, or a processor operable to "monitor, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful," as recited in claim 32. Thus, for at least these reasons and those in the Appeal Brief, the Applicants respectfully request reconsideration of the rejection of claims 16, 19-23, 25, 27, 29-32, 35-39, 41, 43 And 45-49 as being rendered unpatentable by Hino and Narasimhan.

B. The Office Action Has Not Established That The Proposed Combination Of Hino And Narasimhan Describes, Teaches Or Suggests Various Automatic Limitations Of The Claims

The Examiner states the following:

appellant's arguments seem to imply the idea that for the combination of Hino and Narasimhan to teach the limitations of the claim, either Hino or Narasimhan must the entire limitations of

automatically establishing a communicating link between the first system and the at least one media peripheral, automatically determining authorization for monitoring of the at least one media peripheral; automatically monitoring, by the first system, at least one status parameter of the at least one media peripheral. ...

The Examiner disagrees with this assertion.

See Supplemental Examiner's Answer at pages 10-11. The Applicants do not stand for the proposition that **either** Hino or Narasimhan must teach **all** the claim limitations. Instead, the Applicants assert that the **combination** of the two references must describe, teach or suggest **all** the limitations in order for a *prima facie* case of obviousness to be established. See Appeal Brief at pages 9-14. If it is shown that both of these references do not describe, teach or suggest the limitations, then, by definition, the combination of the references cannot describe, teach or suggest the limitations. See *id.*

On the other hand, the Examiner seemingly stands for the proposition that the cited references do not have to describe, teach or suggest all the recited limitations of a claim. However, the Supplemental Examiner's Answer has cited no authority that stands for the proposition that a combination of references can render a claim unpatentable despite the fact that none of the cited references describe, teach or suggest a particular limitation(s). Thus, for at least this reason, the Applicants respectfully request reconsideration of the claim rejections.

The Applicants have shown that neither Hino, nor Narasimhan, describes, teaches or suggests the various automated limitations of the claims. See Appeal Brief

at pages 9-14. The Supplemental Examiner's Answer acknowledges that "Hino does not explicitly indicate automating the connection to the peripheral." See Supplemental Examiner's Answer at pages 4 and 11. Notably, the Supplemental Examiner's Answer does not indicate that Hino describes, teaches or suggests **any** "automatic" steps. See *id.* at page 4 (note that each listed limitation with respect to Hino conspicuously fails to include "automatic" or "automatically"). Moreover, as the Supplemental Examiner's Answer indicates, the "office action does not reply [sic, rely] upon Hino for the idea that these steps are performed automatically, as required from the claim limitations." See *id.* at page 11.

In an attempt to overcome these glaring deficiencies, the Supplemental Examiner's Answer, much like the Final Office Action, relies on Narasimhan. See Supplemental Examiner's Answer at page 4. As demonstrated in the Appeal Brief, however, the portions of Narasimhan that the Office Action relies on (namely, column 5, lines 14-20, 46-55 and 53-62) clearly do not describe, teach or suggest the relevant claim limitations. See Appeal Brief at pages 10-14. That is, the portions of Narasimhan that the Office Action relies on, namely Narasimhan at column 5, lines 14-20, 46-55 and 53-62, **do not describe, teach or suggest at least:**

- **automatically establishing a communication link** between a first system and at least one media peripheral;
- **automatically determining authorization for monitoring** of the at least one media peripheral; and
- **automatically monitoring**, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful.

As noted above, the Supplemental Examiner's Answer acknowledges that Hino does not describe, teach or suggest the "automatic" limitations. See Supplemental Examiner's Answer at pages 4 and 11. Further, the portions of Narasimhan relied on by the Office Action also do not describe, teach or suggest these "automatic" limitations. Because neither of the two cited references describes, teaches or suggests these limitations, the combination of the references, by definition, also cannot describe, teach or suggest the limitations. For at least these reasons, the Applicants respectfully

submit that the Final Office Action and the Supplemental Examiner's Answer fail to establish a *prima facie* case of obviousness with respect to the pending claims.

Taken together, the combination of Hino and Narasimhan discloses various **non-automated** steps, and a step of automatic **collection of data** from remote devices. See Appeal Brief at pages 9-14. The Office Action has not shown, however, where any cited reference describes, teaches or suggests at least the following:

- **automatically** establishing a **communication link** between a first system and at least one media peripheral;
- **automatically** determining authorization for monitoring of the at least one media peripheral; and
- **automatically** monitoring, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful.

Thus, for at least these reasons, the Office Action has not established a *prima facie* case of obviousness with respect to the pending claims. As such, the Applicants respectfully request that the rejection of these claims be reconsidered and withdrawn.

II. The Office Action Has Not Established A *Prima Facie* Case Of Obviousness With Respect To Claims 21 And 37

Claims 21 and 37 recite, in part, "wherein the at least one status parameter comprises a battery level, an "on/off" indication, an amount of storage used, an amount of storage remaining, a "within range" indication, a software version, a model number, a serial number, and a certificate ID." Thus, the claims are clear that the at least one status parameter comprises each of (1) a battery level, (2) an "on/off" indication, (3) an amount of storage used, (4) an amount of storage remaining, (5) a "within range" indication, (6) a software version, (7) a model number, (8) a serial number, **and** (9) a certificate ID. Notably, the claim requires that the at least one status parameter include all nine listed status parameters. The claim does not recite "at least" one of them.

The Supplemental Examiner's Answer cites Hino at column 9, lines 14-25 and column 11, lines 22-46 as disclosing these limitations. See Supplemental Examiner's Answer at pages 4 and 12-13. A review of these cited portions of Hino, however, demonstrates that they do not describe, teach or suggest **all nine examples of status**

parameters listed in claims 21 and 37. For example, the cited portions of Hino do not describe, teach or suggest status parameters such as battery level, amount of storage used, amount of storage remaining, a “within range” indication, etc. Thus, for at least these reasons, and those set forth in the Appeal Brief at page 15, the Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 21 and 37.

III. The Office Action Has Not Established A *Prima Facie* Case Of Obviousness With Respect To Claims 30 And 46

The Applicants respectfully submit that the Office Action and Supplemental Examiner’s Answer have failed to establish a *prima facie* case of obviousness with respect to claims 30 and 46 for at least the reasons set forth at pages 15-16 of the Appeal Brief.

IV. CONCLUSION

For at least the reasons discussed above and in the Appeal Brief, the Applicants respectfully submit that the pending claims are allowable in all respects. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 16-49.

While no fee is believed due with respect to this Supplemental Reply Brief, the Commissioner is authorized to charge any necessary fees, or credit overpayment to Deposit Account 13-0017.

Respectfully submitted,

Dated: February 26, 2009

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